

OCT 03 2005

Via Facsimile

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of:	Broome <i>et al.</i>	Confirmation No.:	4872
Serial No.:	09/723,003	Art Unit:	3731
Filed:	November 27, 2000	Examiner:	Kevin Thao Truong
For:	DISTAL PROTECTION DEVICE AND METHOD	Attorney Docket No.:	1001 1350102
		(CAM No.:	008563-999106)

PETITION UNDER 37 C.F.R. § 1.314 TO DEFER ISSUE

Attn: Office of Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants hereby petition the Office of Petitions, pursuant to 37 C.F.R. § 1.314, to defer the above-identified application from issuing. The issue fee was previously paid on July 19, 2005. *See* attached Issue Fee Transmittal form (Appendix A). As of the date of submission of this Petition, an issue date and patent number have not been assigned to this application. For the reasons discussed below it is necessary to defer issuance of the patent.

Allowance of this application was conditioned on the filing of statutory disclaimers of the claims of U.S. Patent No. 6,179,859 to Bates *et al.* and U.S. Patent No. 6,468,291 to Bates *et al.* In particular, in an Amendment Under 37 C.F.R. § 1.116 ("Amendment") (Appendix B) filed on April 1, 2005, Applicants proposed disclaiming "all claims of the two Bates *et al.* patents [U.S. Patent Nos. 6,179,859 and 6,468,291] in order to remove those patents as impediments to issuance of Applicants' claims" and stated that "Applicants respectfully request that the Examiner issue all of Applicants' claims upon disclaimer of claims 1-26 of Bates *et al.* Patent No. 6,179,859 B1 and a disclaimer of claims 1-19 of Bates *et al.* Patent No. 6,468,291 B2." Amendment, page 7. In response to the Amendment, the Examiner allowed the present application. *See* attached Notice of Allowability (Appendix C).

Accordingly, statutory disclaimers were filed on July 21, 2005 with respect to U.S. Patent No. 6,179,859 to Bates *et al.* and U.S. Patent No. 6,468,291 to Bates *et al.* (See attached Appendices D and E). As of the date of submission of this Petition, notification of the statutory disclaimers has not published in the Official Gazette.

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**TELEFACSIMILE LETTER
FROM**

JONES DAY

222 East 41st Street
New York, NY 10017
Telephone Number (212) 326-3939
Fax No.: (212) 755-7306

TO: Attn: Office of Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

FAX NO.: 1-571-273-8300

FROM: Thomas E. Friebe
Linda B. Azrin

TEL. NO.:

PAGES: 18 + Cover Sheet

DATE: October 3, 2005

Application of: Broome *et al.* Confirmation No.: 4872

Serial No. 09/723,003 Art Unit: 3731

Filed: November 27, 2000

For: DISTAL PROTECTION DEVICE AND METHOD

Attorney Docket No.: 1001 1350102 (CAM No.: 008563-999106)

Please see the attached document(s) transmitted herewith for filing:

Petition Under 37 C.F.R. § 1.314 to Defer Issue and Appendices A-E;

If you have any problems, please telephone the sender Thomas E. Friebe
at (212) 326-3811 or Linda B. Azrin at (212) 326-3894.

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CERTIFICATION OF FACSIMILE TRANSMISSION UNDER 37 C.F.R. 1.8(a)

I hereby certify that this paper is being filed with the United States Patent and Trademark Office by facsimile transmission on October 3, 2005 to facsimile telephone number 571-273-8300.

Linda B. Azrin
Linda B. Azrin

44,516
(Reg. No.)

NYJD: 1594472.1

Thus, Applicants respectfully request that issuance of the present application be deferred until after both statutory disclaimers have been published in the Official Gazette. Applicants also respectfully request that this Petition be acted upon promptly to avoid inadvertent issuance of a patent from the present application before the two statutory disclaimers become effective.

Please charge the required fee under 37 C.F.R. § 1.17(h), which is estimated to be \$130.00, and any fee deemed necessary, to Jones Day Deposit Account No. 50-3013. A copy of this sheet is enclosed.

Date: October 3, 2005

Respectfully submitted,

Thomas E. Friebel by:
Th B G. Reg. No. 44,516

Thomas E. Friebel
JONES DAY
222 East 41st Street
New York, New York 10017
(212) 326-3939

(Reg. No.
29,258)

Enclosures

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APPENDIX A



PART B - FEE(S) TRANSMITTAL

Express Mail NO. 854241021745

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Complete and send this form, together with applicable fee(s), to: Mail

Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (703) 746-4800

This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fee will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Print the Block 1 in my change of address)

JUL 19 2005

CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLET AVENUE
SUITE 800

07/22/2005 09:00 AM 654030480 09723003

01 FC:1501 70.00 DA 1330.00 DP

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmittal.

Certificate of Mailing or Transmittal

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (703) 746-4800, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/23/03	11/2/2000	Thomas E. Broome	1001.1350103	4872

TITLE OF INVENTION: DISTAL PROTECTION DEVICE AND METHOD

APPL. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$70	\$0	\$70	07/20/2005

EXAMINER	ART UNIT	CLASS-SUBCLASS
TRUONG, KEVIN THAO	3731	606-280008

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.☒ "Fee Address" indication (or "Fee Address" indication form PTO/SB/122, Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 3 registered patent attorneys or agents. If no name is listed, no name will be printed.

1. Jones Day

2.

3.

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recording as set forth in 37 CFR 1.311. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE (CITY and STATE OR COUNTRY)

BOSTON SCIENTIFIC SCIMED, INC. Maple Grove, Minnesota

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☒ Corporation or other private group entity ☐ Government

4a. The following fee(s) are enclosed:

- ☒ Issue Fee
☐ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s):

- ☐ A check in the amount of the fee(s) is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☒ The Examiner is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number 311-3013 (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid Issue fee to the application identified above.

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature

Date July 19, 2005

Typed or printed name

Thomas E. Friebe

Registration No. 29,258

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.34. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form under suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PTOL-85 (Rev. 12/04) Approved for use through 04/30/2007.

OMB 0651-0033 U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Adjustment date: 07/22/2005 EXHIBIT 1
10/16/2003 HSEBREQ 00000129 09723003
01 FC:1501 -1330.00 DP

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APPENDIX B

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Express Mail No.: EV 452 774 775 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of:	Broome et al.	Confirmation No.:	4872
Serial No.:	09/723,003	Art Unit:	3731
Filed:	November 27, 2000	Examiner:	Truong, Kevin Thao
For:	DISTAL PROTECTION DEVICE AND METHOD	Attorney Docket No.:	1001 1350102 (CAM 008563-999106)

AMENDMENT UNDER 37 C.F.R. § 1.116

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action, dated October 20, 2004 and pursuant to 37 C.F.R. § 1.116, please enter the following amendments and consider the following remarks.

Applicants submit herewith (1) a Petition for Extension of Time for three months from January 20, 2005 to and including April 20, 2005 (in duplicate) accompanied by the appropriate provision authorizing payment of the required fee; and (2) a Notice of Appeal From the Primary Examiner To the Board of Patent Appeals and Interferences (in duplicate) with a provision authorizing payment of the required fee.

It is estimated that no additional fee is required for filing this Amendment. However, should the Patent and Trademark Office determine otherwise, please charge the necessary fee to Jones Day Deposit Account No. 503013.

Amendment to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks begin on page 5.

NYID: 1552058.2

Amendment to the Claims:

This listing of claims will replace all prior versions, and listings, of claims in the application:

Listing of Claims:

1-50. (Canceled)

51. (Canceled)

52. (Currently Amended) ~~The apparatus of claim 51~~ Apparatus for filtering emboli from blood flowing through a vessel, the apparatus comprising:

a guide wire having a distal region and a stop on the distal region;

a capture ring disposed for translation on the guide wire, the stop limiting translation of the capture ring in a distal direction; and

a filter sac connected to the capture ring,

wherein, when the filter sac is deployed in the vessel, rotation or distal translation of the guide wire relative to the capture ring does not displace the filter sac, but retraction of the guide wire in a proximal direction causes the stop to abut against the capture ring.

53. (Previously Presented) Apparatus for filtering emboli from blood flowing through a vessel, the apparatus comprising:

a guide wire having a first portion having a first diameter and a distal region having a second diameter greater than the first diameter; and

a filter element having a capture ring disposed for translation on the first portion, the capture ring having an aperture greater than the first diameter but smaller than the second diameter,

wherein rotation or distal translation of the guide wire relative to the capture ring does not displace the filter element.

54. (Previously Presented) The apparatus of claim 53 wherein the filter element comprises an expandable sac.

55. (Previously Presented) The apparatus of claim 53 wherein the guide wire further comprises a flange disposed on the distal region having a diameter larger than the diameter of the aperture in the capture ring.

56. (Previously Presented) A method of filtering emboli from blood flowing through a vessel, the method comprising:

providing a guide wire having a distal region including a stop, and a filter element having a capture ring disposed for translation on the guide wire proximal of the stop;

transluminally inserting the guide wire and filter element into a vessel;
deploying the filter element to engage a wall of the vessel, the filter element filtering emboli out of blood flowing through the vessel;
advancing a treatment device along the guide wire to treat a portion of the vessel proximal to the location of the filter element, rotation or distal translation of the guide wire relative to the filter element imparted by the treatment device not displacing the filter element.

57. (Previously Presented) The method of claim 56 further comprising:
providing a delivery sheath; and compressing the filter element to a contracted state to insert the filter element within the delivery sheath.

58. (Currently Amended) The method of claim [57] 56 wherein the filter element comprises an expandable sac, and deploying the filter element comprises expanding the expandable sac so that a perimeter of the expandable sac contacts the wall of the vessel.

59. (Canceled)

60. (Currently Amended) ~~The apparatus of claim 59~~ Apparatus for filtering emboli from blood flowing through a vessel, the apparatus comprising:

a guide wire having a distal region;

a filter element disposed for rotation on the distal region of the guide wire, the filter element comprising a self-expanding strut and a filter sac connected to the self-expanding strut; and

a distal stop disposed on the distal region distal to the filter element, the distal stop limiting distal translation of the filter element on the guide wire,

wherein, when the filter sac is deployed in the vessel, rotation of the guide wire does not displace the filter element.

61. (Currently Amended) A method of filtering emboli from blood flowing through a vessel, the method comprising:

providing a guide wire having a distal region including a distal stop, and a filter element disposed for translation on the guide wire proximal to the distal stop, the filter element comprising a plurality of self-expanding struts having a filter sac affixed thereto;

transluminally inserting the guide wire and filter element into a vessel;

deploying the filter element so that the struts and filter sac expand to engage a wall of the vessel, the filter sac filtering emboli out of blood flowing through the vessel; [and]

advancing a treatment device along the guide wire to treat a portion of the vessel

proximal to the location of the filter element, rotation or distal translation of the guide wire relative to the filter element imparted by the treatment device not displacing the filter element.

62. (Previously Presented) The method of claim 61 further comprising retracting the guide wire in a proximal direction to cause the distal stop to abut against the filter element.

63. (Previously Presented) The method of claim 61 further comprising:
providing a retrieval catheter having a recovery sock;
advancing the retrieval catheter over the guide wire until the recovery sock covers a mouth of the filter element; and
urging the retrieval catheter against the self-expanding struts of the filter element to cause the filter element to collapse.

REMARKS

This Amendment responds to the final Office Action, dated October 20, 2004. Claims 51-63 were pending in this application. Claims 53-58 and 61-63 have been allowed. Claims 51 and 59 have been canceled. Claims 52 and 60 have been rewritten as independent claims incorporating the limitations of canceled claims 51 and 59. Claim 58 has been amended to correct a claim dependency. Claim 61 has been amended to delete the word "and." No new matter has been added by these amendments.

Upon entry of the present amendment, claims 52-58 and 60-63 will be pending. Reconsideration of the present application in view of the following remarks is respectfully requested.

Applicants respectfully request the Examiner to review the application file to verify that *two* requests for interference have been entered. The first, which was filed January 29, 2002, requested an interference with Bates *et al.* Patent No. 6,179,859 B1. The second, which was filed July 30, 2002, requested an interference with Bates *et al.* application No. 09/774,197, now Patent No. 6,468,291 B2. See Applicants' Identification of Patent Under 37 C.F.R. § 1.607(c), filed November 6, 2002. The Office Action, dated March 29, 2004, acknowledges the second request for interference, filed July 30, 2002, but no Office Action acknowledges the first request for interference, filed January 29, 2002, or Applicants' Identification of Patent, filed November 6, 2002.

In addition, none of the Office Actions have confirmed receipt of Applicants' three Information Disclosure Statements, filed January 29, 2002, April 10, 2002 and December 18, 2002.

Applicants respectfully request that the Examiner advise whether these two requests for interference, Applicants' Identification of Patent and three Information Disclosure Statements have been entered. If they have not been entered and are missing, Applicants will provide duplicate copies.

I. THE REJECTION UNDER 35 U.S.C. § 102(E)

Claims 51 and 59 have been rejected under 35 U.S.C. § 102(e) as anticipated by Ladd, U.S. Patent No. 6,059,814. In order to expedite prosecution of this application, Applicants have canceled claims 51 and 59, without prejudice, thus obviating the rejection.

II. THE OBJECTION TO CLAIMS 52 AND 60

Claims 52 and 60 have been objected to as being dependent on a rejected base claim. The Examiner indicated that these claims would be allowable if rewritten in independent form including all of the limitations of the base claim. Claims 52 and 60 have been amended and now include all limitations of the base claim from which they depended. Thus, the rejection has been overcome.

III. THE MINOR AMENDMENTS TO CLAIMS 58 AND 61

In reviewing the pending claims, Applicants noticed that prior claims 58 and 61 were not identical to the corresponding claims of the patents from which they were copied. Therefore, the claim dependency of claim 58 was changed so that it now depends from claim 56 and the word "and" was deleted from claim 61. These claims are now identical to claim 24 of Bates *et al.* Patent No. 6,179,859 B1 and claim 17 of Bates *et al.* Patent No. 6,468,291 B2, respectively. These minor amendments do not raise any new patentability issue.

IV. THERE IS INTERFERING SUBJECT MATTER CLAIMED BY APPLICANTS AND IN THE TWO BATES *ET AL.* PATENTS

Applicants' claims 52-58 are *identical* to claims 2, 6, 7, 11, 21, 23 and 24, respectively, of Bates *et al.* Patent No. 6,179,859 B1 and Applicants' claims 60-63 are *identical* to claims 11, 17, 18 and 19, respectively, of Bates *et al.* Patent No. 6,428,291 B2.¹

The captioned application claims priority under 35 U.S.C. § 120 as a continuation of application Serial No. 09/035,740, filed March 5, 1998, which issued as Patent No. 6,152,946 B1 on November 28, 2000. Bates *et al.* Patent No. 6,468,291 B2 claims priority as a continuation-in-part of application Serial No. 09/354,897, now Patent No. 6,179,859 B1, which was filed on July 16, 1999.

Since all of Applicants' claims 52-58 and 60-63 are entitled to an effective filing date of March 5, 1998, which is prior to July 16, 1999, the earliest possible filing date of both Bates *et al.* patents, Applicants would be senior party if an interference were declared between Applicants' captioned application and the two Bates *et al.* patents.

¹ Claims 11, 17, 18 and 19 of Patent No. 6,428,291 B2 originated as claims 12, 18, 19 and 20 of Bates *et al.* application No. 09/774,197. Since the patent had not yet issued at the time Applicants copied claims, the second request for interference copied claims from Bates *et al.* application No. 09/774,197.

V. NOTICE OF COMMON OWNERSHIP

Applicants advise the Examiner that the assignee of the captioned application is Scimed Life Systems, Inc. In addition, after Applicants' two requests for interference were filed, Scimed Life Systems, Inc. purchased Bates *et al.* Patent Nos. 6,179,859 B1 and 6,468,291 B2, from which Applicants had copied claims.

Despite this common ownership, the issue of priority as between Applicants and Bates *et al.* must still be resolved since Applicants claim subject matter that is claimed in the two Bates *et al.* patents.

Attorneys for Scimed Life Systems, Inc. have investigated and determined that Applicants are the first inventors of the subject matter of proposed counts 2 and 3. Scimed Life Systems, Inc. proposes to disclaim all claims of the two Bates *et al.* patents in order to remove those patents as impediments to issuance of Applicants' claims. No interference would be necessary. Prior to filing any disclaimers, however, Applicants seek the Examiner's agreement that, upon filing the disclaimers, Applicants claims will issue.

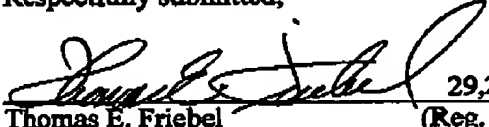
VI. CONCLUSION

All of Applicants' claims 52-58 and 60-63 should be allowable upon entry of this Response. In light of the above remarks, Applicants respectfully request that the Examiner issue all of Applicants' claims upon disclaimer of claims 1-26 of Bates *et al.* Patent No. 6,179,859 B1 and a disclaimer of claims 1-19 of Bates *et al.* Patent No. 6,468,291 B2.

The Examiner is invited to call the undersigned attorney at (212) 326-3939, if a telephone call could help resolve any outstanding issues.

Respectfully submitted,

Date: April 1, 2005


Thomas E. Friebe 29,258
JONES DAY (Reg. No.)
222 East 41st Street
New York, New York 10017
(212) 326-3939

assignee
is Scimed

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APPENDIX C

Notice of Allowability	Application No.	001005 2005	
	09/723,003	BROOME ET AL.	
	Examiner	Art Unit	
	Kevin T. Truong	3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--
 All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS. This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amend. after final 04/01/05.
2. ☒ The allowed claim(s) is/are 52-58 and 60-63.
3. ☒ The drawings filed on 11/27/2000 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

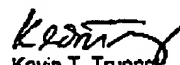
Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

<ol style="list-style-type: none"> 1. <input type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date <u>11/22/04</u> 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material 	<ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6. <input type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date _____. 7. <input type="checkbox"/> Examiner's Amendment/Comment 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other _____
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 Kevin T. Truong
 Primary Examiner
 Art Unit: 3731

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APPENDIX D

OCT 03 2005

Express Mail NO.: EV452775648US

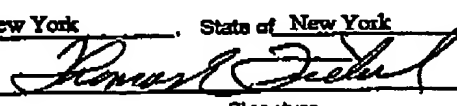
PTO/SBMS (08-04)

Approved for use through 07/31/2008, CMS 0691-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

DISCLAIMER IN PATENT UNDER 37 CFR 1.321(a)

Name of Patentee Boston Scientific Scimed, Inc.	Docket Number (Optional) 008563-999106
Patent Number 6,179,859 B1	Date Patent Issued January 30, 2001
Title of Invention Emboli Filtration System and Methods of Use	
I hereby disclaim the following complete claims in the above identified patent: <u>1-26</u>	
<p>The extent of my interest in said patent is (if assignee of record, state liber and page, or reel and frame, where assignment is recorded): <u>100% Reel 010704, Frame 0505 recorded 3/13/00; Reel 014227, Frame 0663 recorded 7/7/03; Reel 014242, Frame 0437 recorded 7/7/03; and Reel 016283, Frame 0324 recorded 5/27/05.</u></p> <p>The fee for this disclaimer is set forth in 37 CFR 1.20(d).</p> <p><input type="checkbox"/> Patentee claims small entity status. See 37 CFR 1.27.</p> <p><input type="checkbox"/> Small entity status has already been established in this case, and is still proper.</p> <p><input type="checkbox"/> A check in the amount of the fee is enclosed.</p> <p><input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.</p> <p><input checked="" type="checkbox"/> The Director is hereby authorized to charge any fees which may be required or credit any overpayment to Deposit Account No. <u>50-3013</u>. I have enclosed a duplicate copy of this form.</p> <p>WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.</p>	
Signed at <u>New York</u> , State of <u>New York</u> , this <u>21</u> day of <u>July</u> , 20 <u>05</u> .	
 Signature	<u>29,258</u> Registration Number, if applicable
<u>Thomas E. Friebe</u> Typed or printed name of patentee/ attorney or agent of record	<u>212-326-3811</u> Telephone Number
<u>JONES DAY - 222 East 41st Street</u> Address	
<u>New York, New York 10017-6702</u> City, State, Zip Code or Foreign Country as applicable	

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APPENDIX E

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DISCLAIMER IN PATENT UNDER 37 CFR 1.221(a)

Name of Patentee Boston Scientific Scimed, Inc.	Docket Number (Optional) 008563-999106
Patent Number 6,468,291 B2	Date Patent Issued October 22, 2002

Title of Invention

Emboli Filtration System Having Integral Strut Arrangement and Methods of Use

I hereby disclaim the following complete claims in the above identified patent: 1-19

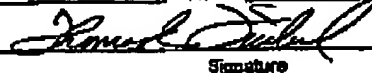
The extent of my interest in said patent is (if assignee of record, state liber and page, or reel and frame, where assignment is recorded): 100%; Reel 011557, Frame 0614 recorded 2/28/01; Reel 014227, Frame 0663 recorded 1/7/03; Reel 014242, Frame 0437 recorded 7/7/03; and Reel 016283, Frame 0324 recorded 5/27/05.

The fee for this disclaimer is set forth in 37 CFR 1.20(d).

- ☐ Patentee claims small entity status. See 37 CFR 1.27.
- ☐ Small entity status has already been established in this case, and is still proper.
- ☐ A check in the amount of the fee is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☒ The Director is hereby authorized to charge any fees which may be required or credit any overpayment to Deposit Account No. 30-3013. I have enclosed a duplicate copy of this form.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-303A.

Signed at New York, State of New York, this 21 day of July, 2005.



Signature

29,258

Registration Number, if applicable

Thomas E. Friebe

212-326-3811

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